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Report of the Independent Expert on the enjoyment of all human rights by older persons on her mission to Costa Rica

Note by the secretariat

The secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte, on her mission to Costa Rica from 9 to 18 May 2016.

The main objective of the mission was to identify both best practices and shortcomings in the implementation of current legislation relating to the promotion and protection of the rights of older persons. In the report, the Independent Expert assesses the implementation of existing international instruments and of laws and policies relating to the enjoyment of all human rights by older persons in Costa Rica. On the basis of the information gathered before, during and after the mission, the Independent Expert analyses the challenges faced by older persons in exercising all their human rights and examines measures to foster the implementation of existing laws and policies that contribute to the promotion and protection of the rights of older persons.

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Report of the Independent Expert on the enjoyment of all human rights by older persons on her mission to Costa Rica*

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* Circulated in the language of submission and in English only.

I. Introduction

1. Pursuant to resolution 24/20 of the Human Rights Council, the Independent Expert on the enjoyment of all human rights by older persons carried out a mission to Costa Rica from 9 to 18 May 2016. The purpose of the visit was to identify best practices and shortcomings in the enforcement of current legislation on the promotion and protection of the rights of older persons in the country.

2. During her visit, the Independent Expert had the opportunity to meet with representatives of the central and municipal governments, non-governmental organizations, older persons and other concerned parties. The Independent Expert wishes to thank the Government of Costa Rica for its invitation and the support it provided throughout the visit. She also wishes to thank the Office of the Resident Coordinator of the United Nations for its valuable collaboration and assistance.

II. Background and context

3. Costa Rica has a population of approximately 4.7 million inhabitants, nearly 9.24 per cent of whom are over the age of 65, a figure which is expected to rise to 11.5 per cent by 2050. Costa Rican society is in the advanced stages of demographic transition, characterized by a narrowing of the base of the population pyramid and an increase in older segments resulting from the combination of a low birth rate and high life expectancy. Women have gone from having an average of 2.12 children in 2003 to 1.76 children in 2014,[1] and life expectancy, which stands at 79 years,[2] is one of the highest in Latin America.

4. However, there are disparities among regions and among groups of older persons. Approximately two thirds of this demographic live in the central region and half live in urban areas.[3] Furthermore, indigenous peoples make up the largest share of the 60-year age group, while persons of African descent are the least represented in that bracket.[4]

5. Costa Rica is a multilingual, multicultural and multi-ethnic society. The latest national census, conducted in 2011, included for the first time a focus on ethnic self-identification: 3 per cent of the population considers itself to be indigenous, 8 per cent black or mulatto and 83 per cent white or mestizo. The diversity of Costa Rica is recognized in the recent constitutional reform, in which the country is described as a democratic, free, independent, multi-ethnic and multicultural republic. The same diversity does not apply to religion insofar as the Constitution establishes Costa Rica as a catholic State.[5] Moreover, although the Constitution establishes Spanish as the official language and guarantees that the State will ensure the continuity and promotion of national indigenous languages,[6] it does not include other minority languages, such as the English Creole spoken by Afro-Caribbean communities, in the administration. The Government has acknowledged

[1] National Statistics and Census Institute, 2011 Census.
[2] State of the Nation Programme (Costa Rica), *Vigésimo Informe Estado de la Nación en Desarrollo Humano Sostenible* (Twentieth report on the State of the Nation regarding sustainable human development), San José, 2014.
[3] *I Informe estado de situación de la persona adulta mayor en Costa Rica* (First report on the situation of older persons in Costa Rica), p. 15.
[4] National policy on a society free from racism, racial discrimination and xenophobia 2014-2025, p. 15.
[5] Art. 75.
[6] Art. 76.

that providing bilingual education in the native tongues of indigenous peoples and persons of African descent is a challenge for the State, a source of discrimination and a barrier to access to public services by minorities.[7] The Independent Expert recommends that the country renew its efforts to remove linguistic barriers faced by older persons.

6. Costa Rica ranks 69th in the Human Development Index. The abolition of the army in 1948 made it possible to fund sectors such as education and health, and there is near universal social security coverage. Nevertheless, one of the main challenges facing the country is the rise in inequality. In 2012, the Gini coefficient was 0.518, above the Latin American average.[8] Also noteworthy is that approximately 30 per cent of older persons live in poverty or extreme poverty.[9]

III. Administrative, legal, institutional and political framework

7. The Government of Costa Rica is headed by a president. Administratively, the country is divided into 7 provinces, which are subdivided into 81 cantons and 463 districts. The cantons are governed, with limited powers, by municipalities, which are headed by a mayor and a municipal council elected by the people. At least 10 per cent of the country's ordinary revenue is channelled towards the municipalities.[10] However, despite political and fiscal decentralization processes, the capacity of municipalities is limited and most governmental responsibilities remain with the central Government.

8. Costa Rica has ratified the main international and regional human rights treaties, as well as those relevant to older persons. The Independent Expert welcomes the fact that Costa Rica has signed the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and recommends that the Government take the necessary steps to speed up its ratification.

9. However, Costa Rica has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Independent Expert urges the Government to ratify this international instrument to broaden the protection of older migrants, especially given that 9 per cent of the current population was born outside the country, mostly in Nicaragua.[11] The Independent Expert also urges the Government to ratify the Inter-American Convention on Protecting the Human Rights of Older Persons.

10. Despite the fact that Costa Rica has set up the Inter-Institutional Commission for the Monitoring and Implementation of International Human Rights Obligations and the Standing Body for Consultation with Civil Society, the Independent Expert reiterates the recommendation of the Human Rights Committee to ensure more robust coordination between the various entities with a human rights portfolio, including older persons' affairs, and to assess existing mechanisms for consultation with civil society organizations working on issues of ageing in order to promote their effective participation.[12]

[7] National policy on a society free from racism, racial discrimination and xenophobia 2014-2025, p. 17.

[8] State of the Nation Programme (Costa Rica), *Vigésimo Informe Estado de la Nación en Desarrollo Humano Sostenible* (Twentieth report on the State of the Nation regarding sustainable human development), San José, 2014, p. 372.

[9] Ministry of Planning and Economic Policy, National Development Plan 2015-2018, pp. 139-140.

[10] Constitution, art. 170.

[11] Directorate-General for Migration (Costa Rica), *Migración e Integración en Costa Rica, Informe Nacional 2012* (2012 National Report on Migration and Integration in Costa Rica), San José, 2012.

[12] CCPR/C/CRI/CO/6, para. 6.

11. The Constitution stipulates that international treaties take precedence over domestic laws, while the Supreme Court has ruled that they rank above the Constitution whenever they provide greater rights and safeguards. The Constitution also stipulates that the State will ensure the highest level of well-being for all inhabitants and that families, as a natural and fundamental element of society, are entitled to special protection from the State. That right also extends to mothers, children, older persons and persons with disabilities.[13] The Constitutional Chamber has ruled that the State has a duty to provide special protection for these groups, in particular older persons.

12. In 1999, Costa Rica adopted a specific law on older persons, the Comprehensive Older Persons Act (No. 7935), and implementing regulations, with a view to ensuring that older persons have equal opportunities and a decent living. The Act established a lead agency to deal with ageing-related issues, namely the National Council for Older Persons (CONAPAM).

13. The National Council is attached to the Office of the President, is designated as the lead agency on ageing and old age and is responsible for developing policies to ensure favourable conditions for older persons and for distributing funds for the benefit of older persons.[14]

14. There are various sources of funding for programmes benefiting older persons, the main source being the Social Development and Family Allowances Fund for older persons living in poverty or extreme poverty. Other resources depend on the income from levies on liquor, beer and cigarettes.[15]

15. The Social Welfare Board of San José also plays a significant role in funding programmes on ageing. A percentage of the net profits of the national lottery is distributed among social welfare institutions, including homes and day centres for the care of older persons.[16] The Inter-Agency Institute for Social Assistance also provides funding to cover the expenses of social welfare organizations.

16. The regulation of social welfare services and the setting of operating standards is overseen by various institutions, including the Ministry of Health, the Comptroller-General's Office, the National Council and the Social Welfare Board of San José. The law covers requirements in terms of facilities and human resources, institutional obligations and the audit and regulation of appropriations and the use of financial resources. The function of auditing appropriations and the use of public funds is also spread among institutions, but all public and private entities are required to provide the National Council with the information it requests on the actions they have undertaken and how they have used the public funds allocated to them.

17. Costa Rica has various programmes for older persons. It adopted the National Policy on Ageing and Older Persons 2011-2021 and an action plan that contains the following five main strategic focus areas: social welfare, income and the prevention of poverty; abandonment, abuse and ill-treatment; social participation and intergenerational integration; the consolidation of rights; and comprehensive health care. In 2015, the Government also adopted a bridging strategy on development, which is intended to be a mechanism for the coordination of programmes, projects and actions designed to ensure effective enjoyment by persons living in poverty of the right of access to goods, services and products provided by public and private institutions and organizations at the national level.

[13] Arts. 50 and 51.
[14] Acts Nos. 7972 and 9188.
[15] Act No. 7972.
[16] Acts Nos. 1152, 7342, 7395 and 8718.

18. In addition, the Government has developed the Accessible and Inclusive Country Pledge, whose objectives include improving transport infrastructure, strengthening health insurance, pensions and the public health system, developing an inclusive gerontology plan and putting forward options for family cohabitation that take a rights-based approach and promote the autonomy of older persons with disabilities. The National Development Plan 2015-2018 also covers older persons living in poverty or extreme poverty through the Assistance Programme for Impoverished Older Persons.

19. In order to implement current laws, the National Council has two programmes under way: "Ageing and quality of life" and "Building solidarity". The former consists of awareness-raising and training campaigns carried out in conjunction with academia and of coordinating support networks. Through the latter, the National Council aims to promote financial and technical support for social welfare organizations, staff of care networks and/or local governments with a view to improving operations and self-management.

20. Costa Rica has an Ombudsman's Office that has been accredited as a category A institution under the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), and there are plans to set up an Ombudsman's Office for Older Persons.[17]

21. In April 2015, the representatives of the institutions responsible for programmatic actions with regard to older persons and which are members of the National Council's board set up the National Technical System for Comprehensive Care of Older Persons. However, it has been acknowledged that this technical group lacks coordination.[18]

IV. Main findings

A. Discrimination

22. The Constitution safeguards the right to equality and non-discrimination, but without mentioning age. However, Act No. 7935 contains specific provisions prohibiting discrimination on grounds of age and is intended to guarantee equal opportunities and dignity in all spheres, from employment to access to health.

23. Costa Rica has developed targeted policies for the protection of certain groups, such as the national policy on a society free from racism, racial discrimination and xenophobia 2014-2025, but without specifically including the issue of ageing. The target groups include indigenous peoples, persons of African descent, migrants and refugees. The Government has also adopted a new Migration Act and a comprehensive migration policy whose goal is the integration of those population groups in Costa Rican society.

24. Domestic legislation notwithstanding, older persons continue to be discriminated against in various areas such as health, pensions, housing and employment. For some subgroups of this age bracket, in particular indigenous peoples, persons of African descent and migrants, language becomes a barrier when filling out forms in order to receive social benefits, hence the importance of removing linguistic barriers so that everyone may enjoy their economic, social and cultural rights.

25. There are eight indigenous ethnicities or peoples in the county, distributed across 24 territories throughout the country and who speak six indigenous languages. During her

[17] Act No. 7395, art. 69, and Act No. 7319, art. 11.

[18] National Council for Older Persons, *Plan Operativo Institucional. Ejercicio Económico 2016* (2016 Institutional Operations Plan), p. 13.

visit, the Independent Expert was informed that there is no institutional mechanism for prior consultation with or participation by older indigenous persons in decision-making on issues related to their welfare.

26. Costa Rica has recognized the challenges it faces with regard to indigenous peoples by acknowledging that the existence of a favourable judicial framework is insufficient to ensure full protection of the rights of communities if it is not accompanied by State policies and actions which sought its effective application.[19] Accordingly, the Independent Expert recommends that the State redouble its efforts to develop targeted policies in cooperation with the National Council for Older Persons and the National Commission on Indigenous Affairs with a view to ensuring that older persons belonging to the most vulnerable groups enjoy all their rights.

B. Violence and abandonment

27. There were cases of ill-treatment and abandonment of older persons that worried the Independent Expert during her visit, such as persons whose relatives abandoned them in hospital, older persons who used public transport and older persons who did not receive assistance in the home. There are laws and programmes in place to combat violence against older persons, but they are fragmented and their enforcement is dislocated. Act No. 7935 defines violence against older persons and provides for their legal and psychosocial protection by establishing protection measures and making physical and sexual assault and economic exploitation offences punishable with prison. However, the Act does not cover abandonment or neglect or lay down penalties for such acts.

28. The Domestic Violence Act requires the authorities to provide special attention to certain groups, including older persons and persons with disabilities, although it does not include abandonment and neglect in its definition of domestic violence.[20]

29. There are also targeted measures in place to combat violence against women, including the Act Criminalizing Violence against Women,[21] under which a victim's advanced age is an aggravating circumstance of a punishable offence.[22] In addition, the National System for Addressing and Preventing Violence against Women and Domestic Violence has been set up and the National Gender Equality and Equity Policy adopted, with the National Institute for Women acting as the main coordinating entity of the policy.

30. Complaints of ill-treatment can be filed with various bodies, including public prosecutors, domestic violence courts, the police, the National Council for Older Persons, the Ombudsman's Office, the Social Insurance Fund of Costa Rica, the National Institute for Women and the Operational Centre for Assistance to Victims of Domestic Violence, which can be reached through the National Emergency System (911). The National Emergency System has reported a rise in the number of complaints received where the victim is an older person.[23] It should be noted that each entity has its own systems for the registration of cases, provision of assistance and follow-up, which hinders the processing of information by gender and age and, thereby, the adoption of effective measures against ill-treatment and abandonment at the national level.

[19] A/HRC/27/12, para. 63.
[20] Act No. 8925, art. 1.
[21] Act No. 8929.
[22] Ibid., art. 8.
[23] Information provided by the National Council for Older Persons.

31. Regarding the lack of coordination, the Independent Expert was informed of the development of a national scheme on assistance to older persons who are victims of violence for the period 2016-2018, called "Línea Dorada" (Golden Line), to be run by the National Council, with the support of the United Nations Population Fund, but whose adoption remains pending. The scheme would include the establishment of a dedicated office for this age group and a comprehensive assistance system consisting of psychological, emergency, legal counselling and representation, social, inquiry and care services.

32. Thus far, the protection of older persons who are victims of abuse has chiefly been provided by the Care Network. The National Council has developed a programme on assistance and care for persons over 60 who are assaulted and/or abandoned, with the aim of supporting the placement of older persons who are referred by hospitals or the courts or are living in street situations. The Independent Expert was informed of the formulation by the Ministry of Human Development and Social Inclusion of a new national policy on persons in street situations and abandoned persons and recommends its prompt implementation through inter-institutional and intersectoral coordination in order to reduce the number of cases of violence and abuse against older persons.

C. Social welfare and the right to social security

33. The Social Insurance Fund of Costa Rica is the autonomous institution responsible for managing and governing social and health insurance. The State is required to ensure a sufficient income in the event of a shortfall, in keeping with the Constitution.

34. The national pensions system is based on four pillars: the basic contributory pension, which is made up of compulsory contributions managed primarily by the disability, old-age and death scheme of the Social Insurance Fund of Costa Rica, the Pension and Retirement Fund of the Judiciary and the Education System Pension Board; the compulsory complementary pension, which is registered and controlled by the Social Insurance Fund and managed by various operators of complementary pensions; the voluntary complementary pension; and the non-contributory scheme.

35. The non-contributory scheme is managed by the Social Insurance Fund and provides support to persons who have not contributed or paid into any scheme. The following categories of people have a right to this support: persons over 65, persons under 65 with a disability that prevents them from working, widows between the ages of 55 and 65 who are in financial difficulty or who have children under 21 who are students or unemployed, and the destitute. The amount of the allowance is 75,000 colones (approximately US$ 140), and the scheme is part of the strategy to combat extreme poverty under the Development Plan. Indigenous peoples are the population group most represented among recipients of the scheme, which could point to a deterioration of their quality of life and poverty in old age.[24]

36. The Independent Expert is concerned at reports she received regarding the administrative process for obtaining the allowance under the non-contributory scheme. The saturation of the system, the complexity of the forms and long waiting lists in order to choose the scheme are among the obstacles encountered by older persons in actually obtaining the allowance. The Independent Expert was informed that the lack of local bank branches from which to withdraw the allowance means that a large portion was spent on the journey to withdraw it. Moreover, there are complaints of misappropriation of the allowance by the older persons' own relatives, who often make the trip to withdraw it.

[24] National policy on a society free from racism, racial discrimination and xenophobia 2014-2025, p. 23.

37. The non-contributory scheme has helped older persons to be more autonomous and financially independent from their relatives, especially in cases where they had worked in the informal sector or as domestic workers without social security coverage, as is the case of many women. Nevertheless, the Independent Expert was informed that a quarter of older persons are the sole breadwinners of the household and that, in households that include older persons, nearly 80 per cent of the heads of household are over 65. It is crucial to gather data on this situation with a view to identifying cases of misappropriation of wealth and taking appropriate action.

D. Adequate standard of living, autonomy and access to justice

38. Costa Rica has increased public investment in education, health and social programmes, with social spending rising to 2.5 per cent of gross domestic product. However, the Independent Expert is concerned about the fiscal deficit and hopes that spending cuts are not having a negative impact on investment in social programmes for older persons.[25]

39. The Constitution protects the right to work while Act No. 7935 addresses non-discrimination on grounds of age in the labour market and stipulates that all older persons should have the opportunity to engage in income-generating activities. Thus far, the Ministry of Labour and Social Security has piloted job fairs entitled "Intégrate al Trabajo" (Join the Workforce), and workshops on empowerment, entrepreneurship and business plans have been run in coordination with the National Training Institute.

40. These measures are clearly inadequate considering that nearly 85 per cent of older persons are inactive because they are retired, have never been part of the workforce or have given up the job search. The remaining 15 per cent are in the workforce, mainly in the agricultural and informal sectors.[26] The lack of a national policy to promote the right to work of older persons is a factor that prevents this demographic from continuing to contribute to the country's economic and social development if they so choose.

41. In addition, according to the 2011 census, home ownership figures show that most older persons live in their own homes. The indigenous population has the highest rate of home ownership. However, their homes are in average or poor condition. The worst figures are those on persons of African descent and migrants, who for the most part live in rented accommodation that is in derelict, poor or average condition.

42. The State has adopted regulations on the processing of family housing grants for older persons without a family. The National Council decides who qualifies as a "single older person" for the purpose of the grant. Although this programme is in effect, the public needs to be made aware of it and the administrative process for obtaining the grant should be streamlined. The programme also needs to be expanded so that older persons may enjoy accessible social housing or be in a position to retrofit their homes to improve access and ensure their autonomy and independence.

43. Current legislation sets special rates for older persons who use public transport. Specifically, there is no fare for distances of under 25 km and a preferential fare is applied to longer journeys. The Independent Expert was informed that the National Training Institute runs training programmes for bus drivers on the topics of ageing, old age and decent treatment in relation to public transport. Nevertheless, the Public Transport Council

[25] Financial bulletins of the Ministry of Finance, 30 May 2016, available at http://gobierno.cr/gobierno-reduce-gasto-por-mas-de-%E2%82%A125-800-millones/#more-15792.

[26] Information provided by the National Council for Older Persons.

and the Ombudsman's Office regularly receive complaints of infringements of this right, including charging the incorrect fare and refusing to let older persons on to the bus.

44. Act No. 7935 does not define the term "autonomy" and barely mentions the concept among the rights of residents and users of private institutions. The Independent Expert observed infantilizing practices in day centres and health-care facilities and recommends that clear measures be taken to realize the right of persons in this group to make decisions on all aspects of their lives, including property, place of residence and health, and to make a life plan in keeping with their beliefs and traditions. The recently adopted Act on Personal Autonomy for Persons with Disabilities contains guidance that could apply to older persons with disabilities.

45. Regarding access to justice, the judiciary has taken on board the Brasilia Regulations Regarding Access to Justice for Vulnerable People and set up the National Commission on the Administration of Justice, which is responsible for providing support to vulnerable groups, including older persons, persons with disabilities, migrants and refugees. Current legislation notwithstanding, a national information strategy is lacking to inform older persons of the steps taken by legal offices to provide priority processing and assistance for their demographic, such as identifying the case files of older persons using terracotta coloured folders.

E. Care

46. The Costa Rican health-care system provides nearly universal coverage. Approximately 97 per cent of older persons have health insurance despite the fact that only 80 per cent of them have some form of income, though many of them get their health insurance indirectly through a family member.[27] The Social Insurance Fund of Costa Rica has been the institution responsible for providing public health-care services since the 1970s, after taking over from the Ministry of Health, which is tasked with monitoring the execution of essential health-care functions and ensuring sectoral governance.

47. The health-care system provides three levels of care. The first consists of health posts, centres and clinics, which have Basic Comprehensive Health-Care Teams (EBAIS) and serve about 94 per cent of the population. Even though there are 43 such teams who provide care to the indigenous and migrant population and doctors and social workers conduct visits in remote areas,[28] the Independent Expert observed that in some regions, such as Valle de Estrella, the indigenous communities do not receive the necessary care. She was informed that when indigenous persons do go to the nearest Basic Integrated Health-Care Teams, it is in emergencies and that many do not turn to health-care outposts for a variety of reasons, including difficult access, lack of transport, opening hours that do not take into account the distance and geographic situation of these communities and cultural considerations.

48. The second level consists of clinics, peripheral hospitals and regional hospitals that provide specialized consultations and medical and surgical treatment and admit patients. The third level consists of national general and specialized hospitals, including one geriatric institution, the Dr. Raúl Blanco Cervantes National Geriatric and Gerontology Hospital. This facility aside, the Independent Expert is concerned at the long waiting lists for some of the vital services for older persons, such as ophthalmology and general and orthopaedic surgery, and at the lack of 24-hour emergency care. The waiting lists are part of a structural

[27] *Idem*

[28] Social Insurance Fund of Costa Rica, bulletin, April 2012.

problem that limits or hinders older persons' access to health on a preferential basis and has led the Social Insurance Fund of Costa Rica to set up a dedicated technical unit.

49. Costa Rica has been building up postgraduate programmes in geriatrics and gerontology since the 1990s, resulting in the establishment of a geriatric ward in almost all of the regional hospitals.

50. The Social Insurance Fund also runs a variety of programmes for older persons, including the Comprehensive Assistance for Older Persons Programme, which deals with self-care and healthy lifestyles, and the programme to provide preferential administrative, pharmaceutical, laboratory, hospital and emergency services. There are also social services, such as the Golden Citizens Programme, which consists of classes on better living, training for caregivers and home care. Aside from the services, initiatives and information provided by various entities, there is no specific national programme to support and train informal caregivers. This is of particular concern in the situation of centenarians whose caregivers are relatives who are elderly themselves.

51. There are approximately 10,000 inhabitants over the age of 90 in Costa Rica, 5 per cent of whom are over 100. The Nicoya region has one of the highest longevity rates in the world. The Independent Expert observed that this phenomenon is related to culture, mode of living, diet, lifestyle and standard of living. Nevertheless, she expressed concern at the situation of centenarians who do not receive State support to help them through the administrative procedures for obtaining home or outpatient care and training for informal caregivers.

52. Costa Rica has rolled out a programme called Progressive Assistance Network for the Comprehensive Care of Older Persons, which is designed to offer a wider choice of options for socially vulnerable older persons living in poverty through the coordination of actions by a community network made up of older persons, families and civil society organizations providing home care or services in long-term care homes, day centres, foster families and community homes and/or housing. The National Council for Older Persons finances part of the cost of accommodating older persons living in poverty or extreme poverty in long-term care homes or day centres, most of which are privately run.

53. The Independent Expert commends Costa Rica on being the first Latin American country to adopt an integrated national plan on Alzheimer's and other related forms of dementia for the period 2014-2024 and recommends that the plan be effectively implemented and publicized at the local level.

54. The Social Insurance Fund of Costa Rica has a network of clinics that provide pain management solutions and palliative care. In the capital, there is a centre for pain treatment and management that offers specialized care to terminal patients and persons with chronic or acute pain. Palliative care has also been recognized as a specialty; certified doctors hold the title of palliative medicine specialists.

F. Education, training and lifelong learning

55. The constitution establishes equality of opportunity for older persons in access to education.[29] More specifically Act No. 7935 provides for a range of measures to promote access for older persons to university courses and study facilities. Nonetheless, specific programmes need to be developed to reduce illiteracy among older persons, particularly in rural areas and indigenous territories.

[29] Article 83.

56. Costa Rica provides institutional programmes, such as the institutional programme for adults and older persons of the University of Costa Rica, for older persons. Other lifelong learning programmes are also provided by the Ministry of Education and the National University. However, broader opportunities should be provided to enable older persons fully to develop their potential, and it is recommended that courses offering access to information technology and computing be provided.

G. Participation and inclusion in society

57. The governing body of the National Council for Older People (CONAPAM) comprises representatives of civil society who work with older persons, among them the Costa Rican Association of Gerontology, associations of pensioners and the Federation of the National Crusade for the Protection of the Elderly. It is important that older persons take an active part in drafting and implementing policies that affect their well-being.

58. There are also advisory forums which older persons may consult for advice on matters that affect their lives and which are part of the Citizens' Monitoring and Oversight Committee. These forums need more logistic and financial support in order for them effectively to participate.

59. There are also non-governmental organizations that encourage voluntary participation by older persons; they include the network of clubs run by the Costa Rican Association of Gerontology.

60. It is essential to strengthen the role played by civil society in respect of ageing and in working with the elderly, and to build up cross-generational programmes such as those of the Pensions Board of the national education system, which endeavours to develop an understanding of the ageing process and of old age among pupils in basic education.

V. Conclusions and recommendations

A. General comments

61. **The Independent Expert commends the Government of Costa Rica for its commitment to promoting and protecting the rights of older persons by the adoption of a broad legal, institutional and political framework to guarantee that older persons are able fully to exercise their human rights.**

62. **Seventeen years after the adoption of Act No. 7935, the almost universal coverage provided by health services and the budgets assigned to welfare services represent significant steps forward in a society that is rapidly ageing. The existence of the non-contributory pension ensures that a large proportion of older persons receive a minimum income that allows them to be autonomous, which is the key to growing old with dignity.**

63. **However, the ageing of Costa Rican society is marked by regional disparities; they are determined by the social and economic inequality that affects certain groups of the elderly, principally those who belong to communities that are indigenous or of African descent and migrant communities. Such asymmetry is also apparent in metropolitan urban areas with a high level of economic development, as well as in rural and coastal areas and areas on the borders.**

64. **In spite of the efforts made, the Independent Expert considers that one of the major challenges that remain is the implementation of the national norms that have**

been adopted in order to comply with international obligations and commitments in respect of older persons. Initiatives taken at the central level are scattered and overlap each other, hindering the attainment of the objectives set by laws and programmes on ageing at the municipal level.

65. In order for solutions to be found which promote the implementation of existing norms, it is fundamental for the State to acknowledge the challenges faced by older persons and for discriminatory attitudes towards them to be eliminated. In spite of the clear commitment on the part of the State to promote inter-agency coordination, and a multisectoral human-rights based approach, the lack of coordination and of cooperation between the different government bodies and agencies continues to present a significant challenge to the effective implementation of Act No. 7935 and its enabling regulations, as well as to existing policies and programmes on ageing.

66. The Independent Expert acknowledges the effort made by the National Council for Older People in its role as the guiding body for policies relating to the rights of older persons, and underscores the need for all ministries and all levels of government to apply existing legislation so as to ensure that older persons are able to exercise their rights. The Independent Expert commends the Government of Costa Rica for having adopted a range of programmes and policies, such as the National Policy on Ageing and Older Persons 2011-2021, which adopts a human rights-based approach. Nevertheless, specific measures covering the wide diversity of older persons need to be introduced in order effectively to ensure their independence, their right to work and to health.

67. The Independent Expert urges the Government to spare no effort in developing programmes on accessibility, safe environments and friendly cities, and that it adopt a programme on resilience for older persons in situations of risk, emergency or disaster.

68. The Independent Expert urges Costa Rica to ratify all the human rights instruments to which it is not yet a party, and in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Inter-American Convention on Protecting the Human Rights of Older Persons.

69. On the basis of these conclusions and of the comments made in the report, the Independent Expert makes the following recommendations.

B. Recommendations to the Government

1. Awareness-raising and training

70. The Independent Expert reiterates the value of conducting public-information campaigns to bring about a change in attitudes towards older persons, to counter myths and stereotypes about ageing at all levels of society and to foster inclusion, social cohesiveness and respect for a diversity of cultural values. It is essential to organize campaigns to raise awareness and appreciation so as to promote a dialogue across generations and which takes into account the multilingual, multicultural and multi-ethnic diversity of this age group, and to combat all forms of racial discrimination, xenophobia and all other forms of intolerance. Existing international instruments should be disseminated and made available to the public. Relevant national legislation, in particular Act No. 7935, should also be disseminated via national awareness-raising campaigns to inform older persons, and in particular those

who are marginalized and who live in remote areas, of their rights and of the means by which they may seek their enforcement.

71. It is essential to adopt a strategy to raise awareness about the issues of ill-treatment and abandonment, via campaigns to raise awareness and to provide information using media whose audience is made up of older persons and persons in their social environment, such as their family, friends and informal carers, as well as of those responsible for homes and public and private institutions, physicians, nurses, carers, public-transport drivers and the community at large. Efforts to raise awareness must be complemented by mandatory education and training seminars for judges, lawyers and other members of the judiciary, and for representatives of the local authorities, the Social Insurance Fund of Costa Rica, the police, the mass media, non-governmental organizations and other bodies involved with ageing and older persons.

2. Institutional structure and participation

72. The Independent Expert recommends that the Inter-Institutional Commission for the Monitoring and Implementation of International Human Rights Obligations be provided with sufficient means to perform its tasks; these should include the necessary financial, human and material resources, and should guarantee that the Standing Body for Consultation with Civil Society is fully operational. The rights of older persons should constitute one of the leading focuses of this institution.

73. The Independent Expert recognizes the efforts made by the State to encourage an inter-institutional approach to developing and implementing policies, plans, programmes and projects on ageing. She takes note with satisfaction of the 2013 Act to strengthen the National Council for Older Persons (CONAPAM), which assigns to CONAPAM 2 per cent of the overall revenue of the Social Development and Family Allowances Fund. However, CONAPAM is top-heavy and highly centralized in the capital, making it difficult for it to carry out and monitor the implementation of local programmes for older persons. It is recommended that CONAPAM undergo a process of decentralization and devolution, and that it be given budgetary autonomy and the human and material resources necessary to set up regional offices or regional inter-institutional liaison committees wherever it deems it to be necessary.

74. The Ombudsman's Office plays a vital role in disseminating and promoting the rights of older persons. It is urgent that it be assigned the necessary financial and human resources to enable its Office for the Protection of Older Persons, which currently has but one representative, fully to perform its role. The Independent Expert urges the Government to take the necessary steps to enable that Office to provide assistance to older persons and to ensure non-discrimination and the provision of preferential treatment for older persons in State institutions and public services, including sufficient financial, human and material resources.

75. The Independent Expert recommends that the body for consultation with civil society be reinforced so as to enable it to ensure that older persons are able effectively to take part in taking decisions that affect their lives, as should the Standing Body for Analysis and Proposals relating to Public Policies for Old Age, Ageing and Older Persons. It is also necessary to strengthen organizations for older persons and civil society organizations involved in issues relating to ageing.

3. Studies and statistics

76. The Independent Expert recommends that Costa Rica conduct an updated study into the situation of older persons in order to pinpoint the trends and challenges

that currently affect them, and in particular older women and women who live in rural and remote areas, women who belong to indigenous populations, populations of African descent, migrant, refugee and undocumented populations and lesbian, gay, bisexual, transgender and intersex persons. The study will be a vital tool for discussing and analysing the challenges posed by the ageing population and for developing specific public policies which improve the living conditions of these groups, which lack visibility. The Independent Expert also stresses the need to ensure that older persons are included and effectively participate in meetings and consultations which concern them.

77. **The Independent Expert recommends that statistics, broken down by age, gender, disability and ethnicity, be systematically and regularly collected. Data collection and analysis must comply with international standards on data protection and the right to privacy.**

78. **The Independent Expert recommends that the information, follow-up and evaluation System be consolidated using statistical indicators, with a view to ensuring that the institutions concerned provide periodic information on their programmes, projects and activities so as to permit monitoring and measurement of their level of compliance in respect of ageing.**

4. Discrimination

79. **The Independent Expert underscores the need to redouble efforts in order to combat discrimination on grounds of age, which particularly affects certain communities and ethnic groups, such as older persons who are indigenous, of African descent, migrants or undocumented. She also draws attention to the importance of revitalizing the native languages of older persons so as to do away with linguistic barriers to equality and to the exercise of all their rights.**

80. **It is important to draw attention to issues of equality and to bring about a change in societal attitudes and beliefs so as to dispel prejudice towards particular groups of older persons. The Independent Expert urges the Government to undertake affirmative action on behalf of all marginalized groups in order to correct existing disequilibria. Some indigenous peoples consider older persons to be a source of wisdom, and it is they who take decisions on behalf of the community; accordingly, the Independent Expert recommends that the State adopt specific measures to protect and promote the rights of these groups. She also recommends the implementation of the recommendation made by the Human Rights Committee in respect of the adoption of the draft legislation on the autonomous development of indigenous peoples,[10] and of a legal mechanism to ensure that indigenous peoples are consulted before any decisions are taken that might affect the exercise of their rights. The adoption of that draft legislation and of the mechanism for consultation should make provision for participation by indigenous older persons, on account of the need for effective channels of communication and for representation of this age group.**

5. Violence and abandonment

81. **The Independent Expert recognizes that despite the adoption of legislative and political measures to combat ill-treatment, the issue is still cause for deep concern. The State should increase its efforts to combat attitudes that tolerate abandonment and other forms of ill-treatment, by means of campaigns to raise awareness of existing legislation and to provide information on and prevent violence, misappropriation of**

[10] CCPR/C/CRI/CO/6, para. 42.

wealth and abandonment, to ensure accountability and to make sure that victims have access to effective remedies.

82. **Act No. 7935 and the Domestic Violence Act represent essential legislation for protecting older persons from ill-treatment and abuse. However, the legislation does not fully encompass all forms of violence against older persons, and as a result it is not possible properly to detect it. It is necessary to adopt, or to amend legislation so as to more fully take into account violence against older persons, including abandonment, and significantly to increase penalties for those guilty of any form of ill-treatment of older persons.**

83. **Protocols and procedures need to be introduced to assist individuals, families, friends, social workers, carers in institutional settings and community groups to understand the problems related to abuse and abandonment, to identify individuals at risk and to provide a response when appropriate. Both formal and informal carers should be trained to prevent and detect the different types of ill-treatment of older persons.**

84. **The Independent Expert recommends that the State develop specific training and education programmes for judges, lawyers, prosecutors, police officers and health and social service officials in order to ensure that cases of violence, abandonment and neglect are considered serious offences and are treated as such.**

85. **The State should introduce a complaints procedure in order to collect disaggregated data on the violence and abandonment suffered by persons in institutions or in private or public premises, in coordination with all the agencies concerned and in particular with the National Institute for Women, the National Commission for Indigenous Affairs, the National Council for Older Persons, the Social Insurance Fund of Costa Rica, the Ministry of Health, the Public Transport Council and the Ombudsman's Office. Victims of violence should be afforded legal assistance and support and mechanisms should be introduced to prevent reprisals, especially in cases in which a family member is responsible for the ill-treatment or violence.**

86. **Older women and older persons with disabilities are more likely to be victimized; accordingly, a gender and disability perspective should be incorporated into any measure designed to raise awareness of and to detect abuse of older persons.**

87. **The Independent Expert recommends the drafting of a single law comprehensively to regulate, authorize, determine the operation of and define disciplinary measures and care protocols for organizations providing services for older persons.**

6. Social protection and the right to social security

88. **Pension and social security systems are essential to the well-being of older persons. The Independent Expert nevertheless expresses her concern about the long-term sustainability of these systems and urges the Government to conduct a study into the management of pension schemes in order to identify managerial and planning problems; it should also develop a plan of action to simplify procedures and reduce time limits for the award of pensions and draw up a forecast of the amount necessary to meet applications for pensions in the long term.**

89. **The Independent Expert reiterates the importance of the non-contributory regime as a means of reducing extreme poverty among older persons and calls for the elimination of obstacles preventing people from receiving these benefits; this requires the simplification of administrative formalities and the provision of assistance in**

completing the required forms and documentation, especially for older persons with disabilities, who are illiterate or who live in rural and remote parts of the country.

7. A proper standard of living, autonomy and access to justice

90. The Independent Expert recognizes that Costa Rica has one of the highest human development indices in the region. However, fresh measures need to be adopted in order to reduce poverty among older persons, including among the most vulnerable groups such as indigenous groups and those of African descent. She encourages the Government to pay particular attention to the situation of older persons in indigenous territories, and in particular to adopt effective measures to combat poverty during old age in order to ensure that older persons possess food, access to housing and satisfactory health to enable them fully to exercise their human rights.

91. The Independent Expert recognizes the efforts made to ensure the right to proper housing. Nevertheless, she draws attention to the need to promote accessible housing without barriers so that older persons may be less dependent, and to make available alternative types of housing. Older persons are entitled to live where they choose and, wherever possible, they are entitled to measures to rehabilitate and adapt their homes to improve accessibility for older persons.

92. As regards the current legal order, the Independent Expert urges the Government to adopt legal measures and specific policies to guarantee the right of older persons to work, via employment exchanges, incentives for public and private employers, the implementation of flexible working arrangements such as phased retirement schemes, access to soft loans for entrepreneurial projects and volunteer programmes. Older persons have a great deal to contribute on account of the experience they have garnered throughout their working lives, and they should be encouraged to go on working if they so wish. Such measures will help to strengthen social cohesion and relationships between older persons and other members of society.

93. Existing legislation on the rights of older persons does not address the question of their autonomy. The Independent Expert recommends that current law be amended so as to fully and broadly guarantee autonomy. This implies affording recognition to older persons as having legal personality and recognizing their capacity as such to demand respect for their wishes and preferences; this will enable them to give free and informed consent. Older persons should be consulted on any decisions that affect their well-being and safeguards should be introduced in respect of free and informed consent, via laws, policies and administrative procedures that comply with international and regional norms. Particular attention should be given to older persons who are illiterate, who have received a limited education or have a disability.

94. As regards access to justice, information campaigns on access to justice should be conducted; these should also be translated into indigenous languages and include standard protocols on assistance that have been developed by coordination among institutions, to provide preferential and priority assistance to older persons. It is also recommended that an assessment be made of the measures implemented to identify the challenges, to produce data and to encourage the necessary changes to the care of older persons. Notwithstanding the existence of legal consultations in universities and of legal advice centres, the Independent Expert recommends the adoption of measures to guarantee free legal assistance for older persons in all administrative and legal matters.

95. The Independent Expert recommends that the State adjust its legislation to ensure that existing public buildings are adapted to the needs of older persons and

that any existing barriers are removed. The State should provide premises that are accessible and completely free of any impediments and it should endeavour to eliminate existing obstacles by revising building control and urban planning legislation and incorporate universal design norms for public services. It is essential for engineers and architects to be made aware of the role played by their professions in ensuring that older persons are able to exercise all their human rights. The Independent Expert recommends that architects, engineers and urban planners incorporate a human rights-based approach into the design of public and private building.

96. Means of transport affect the mobility of older persons, making it essential effectively to implement existing norms which guarantee free carriage or carriage at reduced rates for older persons on public transport, including on coastal shipping lines and railways. Training programmes on the rights of older persons for municipal transport drivers should also be further developed. In addition, further measures are required to improve pubic highways and roads and to press ahead with initiatives relating to accessible public transport.

97. The Independent Expert points out that the impact of climate change and the implementation of policies to adapt to and mitigate climate change should be given priority and that the Government must adopt a policy of climate resilience that takes into account the needs and health of older persons. There is a need to conduct an in-depth assessment of and to map groups of persons in vulnerable situations, including older persons who live in volcanic areas. Planned relocation calls for national legislation to protect the rights of the older persons affected, on the basis of the Operational Guidelines on the Protection of Persons in Situations of Natural Disasters of the Inter-Agency Standing Committee, the Peninsular Principles on Climate Displacement within States and the Sendai Framework for Disaster Risk Reduction 2015-2030.

8. Care

98. The Independent Expert recognizes the efforts made by the Government in setting up the Care Network for Older persons. However, care in the family is the preferred choice of many older persons and there is a need for appropriate parallel assistance to help family members and other informal carers. The Independent Expert recommends that home assistance and home-based medical services be expanded to provide comprehensive assistance, with a particular focus on the country's centenarians. Women too require special attention, as they are the main care providers for families, and recognition is also due for the work of informal carers, who should be entitled to social security.

99. The Independent Expert recognizes the efforts made by the Government to expand the offer of health services, with health posts providing periodic check-ups and premises for Basic Comprehensive Health-Care Teams. Nevertheless, the Independent Expert urges that specific measures be adopted to facilitate access to the right to health and to welfare benefits by populations living in isolated areas and indigenous territories. The State should considerably expand its action on behalf of promotion, prevention and rehabilitation and should adapt indicators and benefits to take account of the actual circumstances and customs of these populations during old age.

100. The Independent Expert recommends that the State reinforce quality control mechanisms and mechanisms to ensure effective and transparent accountability in respect of both public and private provision of care, taking into account the evaluations made by older persons themselves. This requires agreement on clearly

defined principles, including codes of conduct and of practice, together with the provision of training for professionals to enable them to evaluate and verify compliance with the principles, both in the homes of older persons and in institutions accommodating them.

101. Regulation of the care provided by private institutions is important, as is a review of inspection mechanisms with a view to improving the quality of care provided in these institutions. The Independent Expert advises the Government to have quality control and monitoring carried out by properly trained inspectors and to set up a registration unit and inspectorate to detect any illegally operated care homes.

102. Whenever older persons live in homes or establishment that provide them with care or treatment, the State should ensure respect for the diversity of needs, diets, beliefs or religions, together with the right to privacy. Particular attention should be given to the diversity of older persons living in these establishments, to ensure respect for cultural and religious diversity and sexual orientations.

103. The Independent Expert commends Costa Rica for recognizing geriatric medicine as a subcategory of specialized medicine in university curricula and for ensuring that geriatric physicians are present in almost all the country's hospitals. She furthermore encourages the country to expand such courses to ensure that sufficient qualified geriatric specialists are available in all the country's provinces. Geriatric units should be set up in all hospitals in order to guarantee comprehensive care for older persons with the aim of optimizing their quality of life and functional capacity.

104. The Independent Expert commends the Government for the presence of a geriatric hospital in the capital city and draws attention to the importance of providing a round-the-clock emergency service to cover demand from a rapidly ageing society.

105. Notwithstanding the efforts made Social Insurance Fund of Costa Rica in attempting to eliminate long waiting lists, by measures such as providing care in the evening and performing outpatient surgery, the Independent Expert is particularly concerned about waiting times, which may run into years, for medical examinations and consultations. She recommends that the Fund adopt urgent measures, such as the introduction of electronic files and digital agendas, to solve the problem.

106. The Independent Expert urges the Government to make palliative care more widely available, especially for those in the terminal phase of chronic illness, so as to spare them avoidable pain and allow them to die with dignity.

107. The Independent Expert welcomes with satisfaction the National Plan for Alzheimer's disease and recommends that it be effectively implemented in health services and disseminated in homes, shelters and other care centres attending to the specific needs of older persons with dementia.

9. Education, training and lifelong learning

108. In view of the intensity of ageing, additional measures are called for to encourage active ageing and to reduce illiteracy among older persons and especially among those belonging to indigenous populations and populations of African descent.

109. Promotion of lifelong learning is essential in order to enable older persons to cope with ever-changing circumstances and to ensure they are able actively, autonomously and independently to participate in society. While recognizing the availability of a wide range of educational and cultural programmes for older people, including those in day centres, further measures are called for to encourage lifelong learning, covering access to new technologies, in order to narrow the generation gap

and avoid older persons being dependent on others through lack of knowledge of information and communication technology.

C. Recommendations to the international community

110. The international community has a valuable role to play in providing assistance to and cooperating with the Government of Costa Rica to ensure the full implementation of existing international and regional instruments relating to older persons. In conjunction with non-governmental organizations and civil society actors, the international community is capable of analysing the challenges faced by Costa Rica in order to guarantee the full exercise by older persons of all their rights, of helping to identify and evaluate good practices and any shortcomings in the implementation of current legislation. The development of dialogue and active participation by all actors contribute towards better integration of a human-rights based approach into government programmes.

111. The Independent Expert recommends that the United Nations country team, in cooperation with the Regional office of the Office of the United Nations High Commissioner for Human Rights, designate a focal point to coordinate issues relating to the human rights of older persons and to cooperate with international organizations, regional human rights mechanisms, United Nations agencies, non-governmental organizations, civil society organizations, national institutions and academia to provide follow-up to and to promote the implementation of measures which help to promote and protect the human rights of the country's older persons.

D. Recommendations to business

112. The Independent Expert is concerned about the direct and indirect discrimination against older persons, which goes hand in hand with other forms of discrimination such as gender-based discrimination, discrimination on grounds of disability, origin or membership of an ethnic, religious or linguistic minority or on any other grounds. The Independent Expert takes the opportunity to remind businesses that they should comply with international norms in order to prevent, inter alia, all forms of discrimination, and that they should comply with the Guiding Principles on Business and Human Rights which provide guidance for businesses on contracting services. She also takes the opportunity to draw the attention of the Government to its obligation to ensure respect, protection and compliance with human rights in the sphere of business activities by public or private enterprises, and to the need to adopt appropriate legislation and regulations in conjunction with supervision, investigative mechanisms and mechanisms to ensure accountability ir order to establish and ensure compliance with norms for business activities. Particular attention should be directed to the award of credit, loans or mortgages to older persons by financial services, and to the circumstances in which migrant older persons are hired in Costa Rica.